



Washington State
Department of Health
Podiatric Medical Board
Meeting Minutes
May 11, 2006

The meeting of the Washington State Podiatric Medical Board was called to order by David Bernstein, DPM, Chair, at 9:35 a.m. The meeting was held at the Hilton Seattle Airport and Conference Center, 17620 International Blvd., SeaTac, Washington 98188.

Board Members

Participating:

David Bernstein, DPM, Chair
Stewart Brim, DPM, Vice Chair
James Porter, DPM
Rex Nilson, DPM
Amy Wong, Public Member

Staff Participating:

Blake Maresh, Executive Director
Arlene Robertson, Program Manager
Dori Jaffe, Assistant Attorney General
Maryella Jansen, Deputy Executive Director
Peter Harris, Staff Attorney
Karen Maasjo, Administrative Staff

Public Attendees:

Susan Scanlan, DPM, Executive Director,
Washington State Podiatric Medical
Association (WSPMA)
Martin Ziontz, Attorney, WSPMA
Gail McGaffick, Lobbyist, WSPMA

OPEN SESSION

1. Call to Order
 - 1.1 Approval of Agenda

The agenda was approved as published.

1.2 Approval of Minutes - January 26, 2006

The January 26, 2006 minutes were approved as submitted.

1.3 Approval of Conference Call Minutes - March 8, 2006

The March 8, 2006 conference call minutes were approved as submitted.

2. 10:30-11:30 a.m. - Washington Physician Health Program
Presentation
Mick Oreskovich, MD

Dr. Oreskovich provided an overview of the monitored treatment program and informed the Board that services are being expanded to include mental health issues and "difficult doctor" reports. Since these types of issues can impact patient safety, the program has been assisting individuals by providing resources in these circumstances. Dr. Oreskovich has replaced Dr. Hanks as Medical Director of WPHP.

3. Settlement Presentations
John H. Brunsman, DPM - Docket No. 04-04-A-1001PO Stipulated Findings of Fact, Conclusions of Law and Agreed Order - Presented by Judy Young, Staff Attorney

The proposed settlement agreement was presented by Judy Young, staff attorney. The Board deliberated in Executive Session. Dr. Bernstein, reviewing board member, did not participate in the decision. Dr. Brunsman will be advised of the Board's decision by mail.

4. Scope of Practice/Practice Issues.

4.1 Orthotic Definitions

Review background information gathered to determine whether to file a CR101 for modification of the rule.

4.1.1 Podiatric Medicine - WAC 246-922-010
Definitions

4.1.2 Letter to Dr. Wallis, The American College of Foot & Ankle Orthopedics & Medicine (ACFAOM) (same content sent to other organizations identified)

4.1.3 Response from Dr. Wallis, ACFAOM

4.1.4 Response from Dr. Schofield, APMA

4.1.5 Washington State Podiatric Medical Association survey

- 4.1.6 Sample language from other states
- 4.1.7 Orthotics & Prosthetics information about the practice of the professions-Obtained from Internet site
- 4.1.8 Pedorthics: General Information information about the practice of the profession-Obtained from Internet site
- 4.1.9 Orthotist & Prosthetist law RCW 18.200.010 Definitions
- 4.1.10 Eyewear industry comparison
 - 4.1.10.1 RCW 18.34.060 Dispensing optician/RCW 18.34.010 Licensing-Exemptions-Limitations/WAC 246-852-020 Prescription for Corrective Lenses
 - 4.1.10.2 Fairness to Contact Lens Consumers Act

ISSUE

The current definitions for orthotic devices in WAC 246-922-010 are unclear and/or incomplete. The rules do not address the techniques that are appropriate for modeling or measuring the foot for the purpose of prescribing custom fabricated orthotics. The definitions also do not identify the information that should be contained in a prescription for a custom foot orthotic.

There is concern about unlicensed individuals representing products as custom devices without a diagnosis or prescription from a licensed health care practitioner whose scope of practice permits treatment of the foot. There is only second hand information about improper products being sold, and in some cases, causing additional harm or not correctly treating the person's condition.

The Board reviewed the input obtained from the American Podiatric Medical Association (APMA), American College of Foot and Ankle Orthopedics and Medicine (ACFAOM), and the Washington State Podiatric Medical Association (WSPMA). ACFOAM has provided their definitions of various terms. WSPMA provided a survey prepared for their members to gather patient information on over-the-counter arch supports, shoe inserts or other related products.

The number of professions, other than medical, osteopathic and podiatrists, who are trained to fit, fabricate, adjust, etc. corrective devices for medical conditions, i.e., orthotists, prosthetists, and pedorthists, is limited. These professions generally work from the premise that their services are initiated by a prescription from a licensed practitioner whose scope of practice allows diagnosis and treatment of medical conditions of the foot. Their expertise is to obtain the appropriate device and assure a

proper fit is made as prescribed for the patient's condition. On the other hand, there are thousands of foot care products of every imaginable type available over the counter in drug stores, shoe stores, over the Internet, etc.

Orthotists and prosthetists are licensed in Washington. It is within their scope of practice to dispense orthotics prescribed by an authorized health care practitioner. Pedorthotists are not licensed in Washington but are probably practicing in various settings. According to their literature, they provide shoe wear and/or devices by prescription from a health care provider.

There are also unlicensed persons who sell shoes and/or devices by identification of symptoms by the customer without any referral or diagnosis from a licensed health care practitioner. Theoretically a person's condition would have to be diagnosed in order to sell a specific product advertised for the stated condition. Consumers may or may not benefit from these over-the-counter products. The cost of the various products can also range from a few dollars to several hundred dollars.

Many of the other states podiatric medical board web sites were searched and reviewed for applicable laws/rules pertaining to corrective devices. Although only a few states address custom and/or over-the-counter products in their laws, the ones that do are consistent in describing who may prescribe them. The laws also specify that advertising related to treating a medical condition is prohibited by unlicensed persons. Several laws do state that the manufacture, sale, advertisement, fitting or adjusting of proprietary or over the counter products are not prohibited.

If the definitions were clarified, regarding "custom fitted", "over the counter", "pedorthic device", "prefabricated orthoses", and "customizable" etc. consumers would be informed and could identify the differences between various products. The rules should clarify that unlicensed persons cannot diagnose or treat medical conditions with products without an appropriate prescription from a health care practitioner.

The Consumer Protection Office of the Attorney General's Office was contacted and a check of their complaint data bank only showed one complaint against one of the shoe dispensing businesses. That complaint was received in 2000.

Most of the complaints made to the AG's office are for over-charging.

ACTION

Taking into consideration some of the issues in recent disciplinary cases the Board determined it may be appropriate to consider modification of the rule. It has been several years since the original language was adopted and national standards have now been established. It does appear that both licensees and the public could benefit from clarification of the language.

The Board approved moving forward with filing a CR101 to begin the rule-making process.

5. Rules

5.1 Sexual Misconduct Rules

6.1.1 Draft rules language

ISSUE

Since staff had made some small edits since the draft was approved, the Board was asked to review it once more before proceeding with filing the CR102 for hearing.

ACTION

The draft language was approved as presented.

5.2 WAC 246-922-001 Scope of Practice

Review language modifying who may perform anesthesia for podiatric surgical procedures.

ISSUE

Two versions proposed for modifying the language relative to CRNAs performing anesthesia services were reviewed.

ACTION

The Board approved language for modification. Staff will proceed with preparing the documents for filing the CR102 and scheduling the hearing.

6. Licensing Issues

6.1 Acceptable types of continuing education courses

Review types of acceptable courses that qualify for continuing education credits - Discussion by Dr. Brim

6.1.1 WAC 246-922-300 Podiatric continuing education required/WAC 246-922-310 Categories of creditable podiatric continuing education activities

6.1.2 Continuing Education Audits/Approved and Non-approved courses/action taken for Non-Compliance

ISSUE

The issue of whether to allow continuing education credit for taking Internet courses was discussed.

ACTION

Following review of the rules and policy, the Board determined to review continuing education requirements of other medical professions before making a final decision. Staff will collect that information and bring it to a future meeting.

7. Program Manager Reports

7.1 Budget Report

Ms. Robertson provided the budget report as of May 2, 2006 for review. The Board's expenditures are still within the allotment for the current biennium.

7.2 Washington Physicians Health Program

7.2.1 February 2006 Statistical Information

The February and April 2006 reports were reviewed in conjunction with Dr. Oreskovich's presentation.

8. Chair Report - Dr. Bernstein

Attendance at WSPMA meeting

Dr. Bernstein reported that he had provided an update of the Board's activities at the recent association meeting.

9. Executive Director Reports

9.1 Department/Division Updates

Mr. Maresh reported on implementation of the ILRS computer project. The project is on schedule for start up in the fall of 2007. He also reported that the results of the Board/Commission/Committee Survey have not been received. The organizational review is still being reviewed at the Secretary level so no decisions have been revealed to staff.

9.2 Operating Agreement

This item was tabled.

10. Delegation of Signature Authority

The Board renewed the Delegation of Signature Authority.

11. Schedule Conference call dates for complaint approvals/case reviews. Select one additional meeting date for 2006.

ACTION

The following conference call dates were set: June 15, July 20, August 17, and October 19. Conference calls will be dependent upon whether any new complaints have been received.

November 9 was set as an additional regular meeting date.

CLOSED SESSION

12. Investigative Authorizations

Three complaints were reviewed and forwarded for investigation.

13. Disciplinary Case Reviews - Reviewing Board Member Reports
2005-10-0002PO - Applicant approved for licensure.

CASES CLOSED BELOW THRESHOLD

2006-02-0005PO	2006-04-0001PO
2006-03-0003PO	2006-04-0004PO
2006-03-0004PO	2006-05-0001PO

14. Compliance Reports

The compliance report was provided for review.

15. Application Review

One applicant was approved for a temporary license.

The meeting adjourned at 2:30 p.m.

Respectfully Submitted

Arlene Robertson
Program Manager

NOTE: PLEASE VISIT THE PODIATRIC MEDICAL BOARD'S WEB SITE FOR FUTURE AGENDAS AND MINUTES. WWW.DOH.WA.GOV , GO TO LICENSING AND CERTIFICATION AND YOU WILL FIND A LIST OF THE HEALTH PROFESSIONS, GO TO PODIATRIC PHYSICIANS FOR AGENDAS AND MINUTES.
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